

REMARKS

Claims 1-6, all the claims pending in the application, stand rejected.

Specification

The Abstract is objected to because it is not on a separate sheet. Applicants are submitting the Abstract on a separate sheet in order to overcome this objection.

Claim Rejections-35 USC 112

Claims 1-4 stand rejected under 35 U.S.C. § 112, second paragraph. The Examiner questions the meaning of the term % in claim 1. The Examiner notes that the cited symbol is used on page 11 of the present specification, but notes that it is not defined. Applicant believes it represents a notation "proportional to," but was unable to find a citation to an authoritative text to support this assertion. Applicants will submit such citation at the Examiner's request.

Claim Rejections-35 U.S.C. § 101:

Claims 1-4 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The Examiner asserts that the claim must have a concrete, tangible and useful result, and asserts that none is stated in the claim.

First, Applicants note that the claim is directed to a program product and not simply to a method. The product is useful in itself, as it can be coupled to a computer and utilized for calculation of a result, namely "only those butterflies necessary for calculation of the output bins" as expressly stated in claim 1. Thus, there is a concrete and tangible and useful result.

Second, claim 1 has herein amended to state that the result made available for further processing or storage. Consistent with the Guidelines, this is a conveyance to a real world structure. Thus, the claims now recite subject matter consistent with the current Guidelines.

Third, it is notable that in a speech to AIPLA last week, a PTO representative stated that the Guidelines were only temporary and had problems that were going to be resolved shortly, including the issue of what is concrete, tangible and useful. Indeed, it is suggested that so long as there is a demonstrated utility, the claim should be considered patentable. Such utility now appears in the claim to a computer readable medium.

Amendment under 37 C.F.R. § 1.116
Application No. 09/980,780

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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